

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

WILTON BROWN,)	
)	
Plaintiff,)	8:05CV423
)	
v.)	
)	
UNITED STATES DEPARTMENT OF)	ORDER
HOUSING & URBAN DEVELOPMENT,)	
and OMAHA HOUSING AUTHORITY,)	
)	
Defendants.)	
_____)	

This matter is before the court on plaintiff's motion for a temporary restraining order, Filing No. 7. In his complaint, plaintiff alleges that defendants have violated state and federal fair housing statutes and have deprived him of his constitutional rights in connection with the denial of Section 8 housing benefits by reason of his criminal history. See Filing No. 1.

Plaintiff now seeks an order restraining the defendants from causing him to become "homeless" on October 1, 2005. However, the materials submitted in support of his motion show that, although defendant Omaha Housing Authority ("OHA") will terminate plaintiff's HOME housing assistance payments on October 1, 2005, and has denied Section 8 assistance to plaintiff, OHA is not plaintiff's landlord and is not evicting plaintiff from his home. See Filing No. 7, attached Exhibits ("Exs.") 2 & 5. Accordingly, it does not appear that plaintiff is under any immediate threat of eviction.

The Clerk of Court has issued summonses for HUD and OHA, but the record does not show that the defendants have been served. The United States Attorney has contacted the court, on behalf of defendant United States Department of Housing and

Urban Development ("HUD"), to inquire whether a hearing date was set in this case. Defendant OHA has not yet responded, but the court is advised that OHA is represented by counsel, as indicated below.

The court is authorized, under some circumstances, to issue a temporary restraining order without written or oral notice to an adverse party. Fed. R. Civ. P. 65. However, since no harm is imminent, the court finds it appropriate to consider the defendants' responses to the motion, with the understanding that the status quo will be maintained in the meantime. Accordingly,

IT IS ORDERED that:

1. Defendants shall respond to plaintiff's Motion for a Temporary Restraining Order within two weeks of the date of this order.
2. If either defendant pursues the eviction of plaintiff, which would include the commencement of eviction proceedings or other change in the plaintiff's current housing status, the defendant shall notify the court by written pleading and by telephone to chambers at least five (5) business days in advance of such action.
3. The Clerk of Court shall send a copy of this Order to the plaintiff, to OHA at the address listed in Filing No. 6, to Assistant United States Attorney Ellyn Grant, and to Dana C. Bradford, III, at the Bradford, Coenen Law Firm.

DATED this 30th day of September, 2005.

BY THE COURT:

s/ Joseph F. Bataillon
JOSEPH F. BATAILLON
United States District Judge